

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>January 11, 2017</u>

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KELLY PRICE,

Plaintiff,

15 Civ. 5871 (KPF)

v.

ORDERTHE CITY OF NEW YORK, *et al.*,

Defendants.

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KATHERINE POLK FAILLA, District Judge:

On December 2, 2016, the Court directed Plaintiff to file a Fourth Amended Complaint (the “FAC”), for the specific purpose of naming the Jane and John Doe Defendants identified by the City of New York as Inspector Obe and Selvena Brooks. (Dkt. #38). The Court instructed Plaintiff that she was not to use the FAC to “add back” into this litigation “those claims and those parties that have been dismissed from this litigation” in the Court’s December 2 Order and those preceding it. (*Id.*).

On January 3, 2017, Plaintiff Kelly Price filed the FAC. (Dkt. #41). However, the FAC fails to comply with the Court’s December 2 Order because it attempts to add back into this litigation previously terminated Defendants Linda Simmons, Maria Strohbehn, Kenya Wells, Audrey Moore, Larry Newman, Laura Higgins Richendorfer, Cyrus Vance, Jr., Rose Pierre-Louise, Matthew Winters, P.O. Relf, P.O. Maladano, P.O. Jane Doe, Jane Doe Assistant District Attorney, and John Doe Assistant District Attorney. Accordingly, the Clerk of

Court is directed to strike this improper pleading. The Court hereby deems Plaintiff's Third Amended Complaint (Dkt. #21), the operative Complaint in this litigation. The parties remaining in this action are those named therein and not previously terminated: The City of New York and the John Doe Police Officers.

To effectuate the specific amendment permitted by the Court in its December 2 Order, the Court will exercise its powers pursuant to Federal Rule of Civil Procedure 21 and substitute Inspector Olufunmilo F. Obe and Selvena Brooks for Defendants John Doe Operator of @NYPD28PCT Twitter Account and John Doe Operator of @NYCagainstAbuse Twitter Account, respectively. *See* Fed. R. Civ. P. 21 ("On motion or on its own, the court may at any time, on just terms, add or drop a party.").

The Court believes the City to be working with Plaintiff to identify the still-unnamed individuals. (*See* Dkt. #37). The City is directed to advise Plaintiff or the Court of the identities of these individuals on or before January 31, 2017. At that time, the Court requests that the City also advise the Court as to its intentions regarding the future of this case. Plaintiff is again reminded that if she does not provide the additional information that the City needs to identify these individuals, it may not be possible for her to pursue her claims against them.

SO ORDERED.

Dated: January 11, 2017
New York, New York



KATHERINE POLK FAILLA
United States District Judge

A copy of this Order was mailed by Chambers to:

Kelly Price
534 W. 187th Street Apt. 7
New York, New York
10033